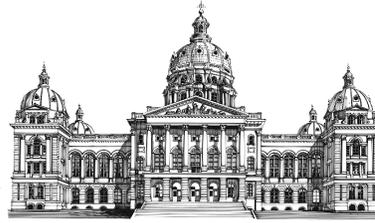

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Bills With New Or Expanded Penalties Passed During the 1993 Session

ISSUE

Impact of legislation passed during the 1993 Legislative Session on the correctional system and the State's revenues.

CODE AUTHORITY

Various Acts of the 1993 General Assembly (Attachment I)

BACKGROUND

The General Assembly passed 184 bills during the 1993 Legislative Session. Eighteen of these bills established new penalties or increased the level of penalty. All 18 bills have been signed by the Governor (Attachment I). These bills will increase the number of persons under the jurisdiction of the Criminal Justice System and affect revenues from fines and civil penalties.

BUDGET IMPACT

Inmate Populations. Two bills affect prison and jail populations.

- SF 83 defines drive-by shootings as terrorism and increases the level of penalty from a Class D to a Class C felony when there is intent to injure another. Currently, when a person is killed in this manner, the case is prosecuted as murder. If the victim is injured but not killed, it is considered attempted murder. The penalties in both cases are more severe than a Class C felony, so this Bill will not affect those cases. This Bill will affect those acts currently defined as terrorism in which no one is injured. When intent to do harm is shown, the penalty is a Class C felony. In 1991 there were 20 offenders convicted of terrorism; 5 were sent to prison. The changes in this Bill may result in more offenders going to prison each year. This Bill will also increase the length of time spent in prison by approximately 1 year for the offenders who receive Class C, rather than Class D, felony convictions. The Department of Corrections budgets support costs at \$7,000 per inmate per year. This will have a small impact on the prison population.
- SF 342 broadens the definition of domestic abuse to include parents of a minor regardless of whether the parents live together and persons who have lived together but no longer do. The Bill also prohibits the suspension or deferral of certain

mandatory minimum jail sentences. This Bill will probably increase jail usage, but no data are available to estimate the amount of increase.

Revenue from Fines. Most of the 18 bills passed have the potential to increase revenues from fines. In most cases the increase either is not significant or can not be estimated. Two Bills do have significant revenue effects.

- SF 370 modifies the process for collecting fines, sets minimum fines for simple misdemeanors and Class C and D felonies, and sets mandatory minimum fines for aggravated and serious misdemeanors. It also provides for community service in lieu of fines. The Bill doubles the civil penalty for a driver's license revocation for driving while intoxicated (OWI). The fine increases could produce \$9.5 million if the minimum fine were applied in all cases. Due to offenders' inability to pay, the revenues are estimated to be \$5.0 million from the increased fines and \$1.0 million from the OWI penalty.
- SF 372 delays the sunset and makes corrections to the Structured Fines Pilot Program. The Program is estimated to generate \$350,000 in FY 1994 and FY 1995. Fifteen percent goes to the county to pay the program costs, and 85.0% goes to the State General Fund.

Federally Induced Legislation. Four bills with penalties passed during the 1993 Session were reactions to federal requirements and have a significant fiscal impact.

- SF 373 requires a person's driver license be suspended for conviction of a drug offense. This will allow the State to retain \$8.2 million in federal highway funding in FFY 1993. The penalty for not having such a law would double in FFY 1995 and would have cost Iowa \$16.4 million in lost federal highway funding.
- HF 331 makes the Code of Iowa consistent with the federal Clean Air Act. Iowa will retain an \$860,000 program grant. (The program requires a \$281,000 state match and supports 25.0 FTE positions.) Iowa will retain the responsibilities for controlling air pollutants and will continue to collect emissions fees. If the State were to abdicate these responsibilities, the federal Environmental Protection Agency would assume the function and the emission fees of \$1.0 to \$2.0 million annually.
- HF 418 provides for Human Immunodeficiency Virus (HIV) testing of convicted sex offenders upon request of the victim. The Bill also establishes a penalty for persons who release the offender's test results without authorization. Having this law in place allows the Governor's Alliance on Substance Abuse (GASA) to retain \$500,000 in federal funding and to be eligible for a share of the funds not distributed to states lacking such a law.
- SF 174 is intended to attain compliance with the federal Americans with Disabilities Act and avoid fines for failure to comply.

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Bill No.	Short Title	Description of Type of Penalty and Bill Highlights	Comments:
HF 83	Discharge of Weapon from Motor Vehicle	Felony -- Increases terrorism with intent to injure or threaten to a Class C felony. If can not demonstrate intent to injure or threaten, it remains a Class D felony.	Twenty offenders in 1991 with 5 sent to prison. Could increase number sent to prison and length of stay. Those convicted of Class C felonies would remain in prison approximately 1 year longer.
HF 89	Wild Ginseng	Scheduled Fine -- Makes illegal harvesting of wild ginseng subject to a scheduled fine of \$100 and requires reimbursement of the State at 150% of market value.	
HF 136	Failure to Sterilize a Dog or Cat from a Pound	Simple Misdemeanor -- Obtaining a dog or cat from a pound or shelter and failing to satisfy the sterilization agreement is a simple misdemeanor. A pound or shelter that fails to provide for sterilization is subject to civil penalty up to \$200.	
HF 193	Road Construction Zone Traffic Violation	Scheduled Fine -- doubles scheduled fine, up to \$100, for a moving violation within a road construction zone.	
HF 210	Minor Alters License	Simple Misdemeanor -- Minors making or using fake driver's license IDs commit a simple misdemeanor. Includes suspension.	
HF 331	Federal Clean Air Act Violations	Aggravated Misdemeanor -- expands to include air pollutants relative to the federal Clean Air Act. Aggravated misdemeanor for individual to knowingly pollute air or make false statements on application. Up to \$1,000,000 fine for corporations.	Complies with federal regulations to retain \$860,000 federal program grant (requires \$281,000 State match and supports 25 staff). Without change federal agency could take over program and collect \$1.0 to \$2.0 million in fees now received by DNR.
HF 354	Juvenile Drivers as Habitual Offenders	Driver's License Suspension -- Added option of classifying juvenile drivers as habitual offenders. As habitual offenders, juveniles would lose license for 2 to 6 years for habitual serious offenses and 1 year for habitual minor offenses.	
HF 360	LPG Containers	Simple Misdemeanor -- Prohibits, except for owner, the refilling, sale, giving, loaning, defacing identification, etc. of 20 lb. or greater capacity liquefied petroleum gas tank.	
HF 401	Transport of Bees	Simple & Serious Misdemeanors -- technical changes and broadens definitions to include bee transport packages, and to treat Africanized bees as a nuisance.	
HF 418	HIV Testing of Sexual Offenders	Civil Penalty -- Provides for a \$1,000 civil penalty for unauthorized disclosure of a convicted sexual offender's HIV test results. Provides for testing of the offender upon request of the victim.	Retains \$500,000 in federal funds for the Governor's Alliance on Substance Abuse. In the worst case, costs to the State are estimated to increase by \$300,000.

Bill No.	Short Title	Description of Type of Penalty and Bill Highlights	Comments:
HF 561	Dental Board Civil Penalty	Civil Penalty -- Permits the Dental Board to discipline a licensed dentist or dental hygienist with civil penalty of up to \$10,000.	
HF 637	Neglected and Abused Animals	Clarifies definitions and separates cruelty to animal offenses by livestock and other animals. Increases coverage so that each incident of livestock neglect is a simple misdemeanor rather than the total for all incidents being as one simple misdemeanor. Makes injury of an animal owned by someone else an aggravated misdemeanor.	
HF 652	Failure to Deliver Voter Registrations and Absentee Ballots	Misdemeanors -- Serious misdemeanor for willful failure to deliver another's completed registration form or another's absentee ballot. Simple misdemeanor for communicating compiled early vote counts before polls close.	
SF 174	Americans with Disabilities Act (ADA) Violators	Simple Misdemeanor -- Sets standards to be consistent with Americans with Disabilities Act. Persons knowingly constructing a building in violation of the statute commit a simple misdemeanor.	Intended to avoid fines for failure to comply with federal ADA regulations.
SF 342	Domestic Abuse	Contempt -- Expands domestic abuse by including parents of a minor regardless of living arrangements and persons who have lived together but are not now. Prohibits suspension/deferral of mandatory minimum 7-day jail term for a domestic abuse order.	Can not determine number of domestic abuse cases. Will result in more persons spending time in jail.
SF 370	OWI License Revocations & Minimum Fines	Misdemeanors and Felonies -- Modifies process for collecting fines, sets minimum fines for Class C and D felonies and simple misdemeanors, and mandatory minimum fines for aggravated and serious misdemeanors. Increases OWI license revocation penalty.	Increases to fines and civil penalties could produce of \$9.5 million in General Fund revenues. Due to delinquent fine payments and substitution of community service for fines, actual collections are estimated to be \$6.0 million.
SF 372	Structured Fines Program	Structured Fines -- Extends sunset and makes corrections relating to the Structured Fines Pilot Program. Changes distribution of structured fines and civil penalties between counties and the State.	Generates approximately \$350,000 for FY 1994 and FY 1995. Funds are divided 15.0% to the county with the Program and 85.0% to the State.
SF 373	Drug Offenses Driver's License	License Suspension -- Provides for suspension of driving privileges for persons convicted of various drug-related offenses.	Retains \$8.19 million in federal highway funding for FFY 1993 and \$16.39 million in FFY 1995.